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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/660,067

09/11/2003

Bart De Laender

40987

6186

38505

7590

02/11/2008

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EXAMINER

WILKENS, JANET MARIE

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

02/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/660,067		LAENDER ET AL.	
	Examiner		Art Unit	
	Janet M. Wilkens		3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 64-73, 75 and 77-88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 64-73, 75 and 77-88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 5, 2007 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 64, 68, 75, 77, 78, and 81 are rejected under 35 U.S.C. 102(b) as being anticipated Faye (French reference 2,679,482). Faye teaches a pallet (Fig. 1) comprising: a top support member (cross supports/plates shown in Fig. 1), bottom support members (one member shown in Fig. 1), and a plurality of solid cylindrical/elongated octagon support blocks (see one of each in Fig. 1). Each solid support block comprises a composite material comprising at least one cellular material and at least one thermal plastic material (wood and polypropylene or polyethylene; see English abstract; plastic making up 20-50% of composite) and has upper and lower surfaces devoid of any openings and flat ends (upper and lower surfaces and longitudinal side surfaces for octagon). Also, fasteners/nails (see

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abstract) are provided. (Note: the other materials listed in the grouping in claim 75 being functionally equivalent to the generic wood material.)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 69-73, 79, 80, 82, and 85-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faye (French reference 2,679,482). Faye teaches a pallet (Fig. 1) comprising: a top support member (cross supports/plates shown in Fig. 1), bottom support members (one member shown in Fig. 1), and a plurality of solid cylindrical/elongated octagon support blocks (see one of each in Fig. 1). Each solid support block comprises a composite material comprising at least one cellular material and at least one thermal plastic material (wood and polypropylene or polyethylene; see English abstract plastic making up 20-50% of composite) and has upper and lower surfaces devoid of any openings and flat ends (upper and lower surfaces and longitudinal side surfaces for octagon). Also, fasteners/nails (see abstract) are provided. For claims 69-73, 79, 80, 82 and 85-88, Faye fails to teach specific shapes, materials, densities/particle diameters for the materials and/or concentrations of materials used in the blocks. It would have been an obvious design consideration to

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one of ordinary skill in the art at the time of the invention to modify the support blocks of Faye by using differently shaped blocks (including oval), different materials, different combinations of materials having different densities, particle diameters, concentrations of material, etc, depending on the desired need of the person constructing the pallet, e.g. depending on aesthetic reasons, block strength properties desired/required, the materials readily available, personal preferences, etc. It would also have been an obvious consideration to use different types of cellular material and plastics, including polyesters, epoxies and vinylesters or wood, linen flax shives, paper fiber, nut shells, bamboo, etc, for the same reasons stated above. (Note: the members in these groups of materials being functional equivalents. Furthermore, many shapes are disclosed by the applicant including octagon, see Fig. 5; the block shapes being considered functional equivalents.)

Claims 65-67, 83, and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faye in view of British patent (832884). As stated above, Faye teaches the limitations of claims 64 and 82, including top and bottom support members with support blocks in between. For claims 65-67, 83 and 84, Faye fails to specifically teach three upper cross supports between at least one top plate and support members and three rows of support blocks corresponding to a respective cross support. The British patent teaches a pallet (Fig. 1) comprised of a top member with top support members and upper cross support members, three sets of support blocks and bottom support members. It would have been obvious to use the specific pallet structure

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configuration of the British patent, to provide a complete pallet for use with the blocks of Faye.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Janet M. Wilkens/
Primary Examiner, Art Unit 3637

Wilkens
January 29, 2008